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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,696	01/18/2001	Yasutaka Nagao	WN-2295	4698

466 7590 07/27/2004

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EXAMINER
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SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Best Available Copy

## Office Action Summary

### Application No.

09/761,696

### Applicant(s)

NAGAO, YASUTAKA

### Examiner

El Hadji M Sall

### Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 3-9 and 12-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,10,11 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

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### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 09/16/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**1. DETAILED ACTION**

This action is responsive to the application filed on January 18, 2001. Claims 1, 2, 10, 11 and 19 are pending. Claims 3-9 and 12-18 are cancelled. Claims 1, 2, 10, 11 and 19 represent network traffic monitoring system and monitoring method.

**2. Claim Rejections - 35 USC § 102**

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 2, 10, 11 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Kloth U.S. 6,598,034.

Kloth teaches the invention as claimed including rule based IP data processing (see abstract).

As to claim 1, Kloth teaches a traffic monitoring system which monitors network traffic in a network in which transmission priority of a packet to be transmitted in the network is changed according to an attribute of the packet, comprising:

A monitor unit which monitors the packet (column 3, lines 17-32, Kloth discloses...because the system has defined a packet to be monitored...and simultaneously “tag packet according to Prioritized Status, route/forward/switch immediately, don’t buffer, user has priority, don’t monitor, don’t discard, don’t drop” and so forth; column 13, lines 41-43, Kloth discloses...the traffic stream will proceed through the routing engine, and will be monitored in real time); and

An accumulate unit which accumulates, for each attribute, traffic information corresponding to the monitored packet (column 13, lines 41-50, Kloth discloses...traffic stream will proceed through the routing engine, and will be monitored in real time...IP stream, IP packet, or IP flow going through the router engine will be performed generally within the same amount of time that the information would be stored in the router engine).

As to claim 2, Kloth teaches the traffic monitoring system of claim 1, wherein the packet is an IP packet in an IP network, and the attribute of the packet includes at least one of a service class of the IP packet and sub network address of the IP network (column 14, lines 25-26, Kloth discloses referring to fig. 13, a protocol stack IP is shown for transmitting packets...; figure 2; column 7, lines 30-35, Kloth discloses...example fields shown include an IP header field...and a class of service field 206).

Claims 10, 11 and 19 do not teach or define any new limitations above claims 1 and 2, and therefore are rejected for similar reasons.


**4. Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 703-306-4153. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

El Hadji Sall  
Patent Examiner  
Art Unit: 2157



**SALEH NAJJAR**  
PRIMARY EXAMINER